

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ADVANCED THERAPEUTICS OF
WISCONSIN, INC., a Wisconsin
corporation; BLACKBURN'S
PHYSICIAN'S PHARMACY, INC., a
Pennsylvania corporation; SKMR, INC., a
New Jersey corporation f/k/a Recovery Care,
Inc.,

Case No. 07-CV-0659 (PJS/RLE)

Plaintiffs,

v.

ORDER ADOPTING REPORT AND
RECOMMENDATION

AUGUSTINE MEDICAL, INC., a subsidiary
of Arizant, Inc., a/k/a AMI; ARIZANT INC.;
SCOTT D. AUGUSTINE, individually and as
CEO of AMI; JAMES BENHAM,
individually and as General Legal Counsel of
AMI; PAUL JOHNSON, individually and as
Director of Reimbursement of AMI;
TIM HENSLEY, individually and as National
Sales Manager of AMI,

Defendants.

Larry A. Bagsby, BAGSBY & LEE, LLC; and Robert D. Sicoli, LAW OFFICES
OF ROBERT D. SICOLI, LTD., for plaintiffs.

B. Todd Jones and Heather M. McElroy, ROBINS KAPLAN MILLER &
CIRESI, LLP, for defendants Augustine Medical, Inc. and Arizant Inc.

This matter is before the Court on plaintiffs' objection to the July 5, 2007 Report and Recommendation ("R&R") of Magistrate Judge Raymond L. Erickson. Judge Erickson recommends that plaintiffs' claims against individual defendants Scott D. Augustine, James Benham, Paul Johnson, and Tim Hensley be dismissed for failure to comply with the Court's June 11, 2007 order, for failure to effect proper service, and for failure to prosecute. The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Plaintiffs object that they cannot locate the individual defendants until they have had a chance to conduct discovery. Plaintiffs did not make this argument to Judge Erickson, however, despite having been ordered to show good cause for an extension of time in which service could be effected. Furthermore, other than mailing waivers of service to the individual defendants' former place of employment, plaintiffs have made no effort to locate the individual defendants. Plaintiffs have not shown good cause for an extension of time, and the Court will therefore dismiss the individual defendants.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court ADOPTS Judge Erickson's R&R [Docket No. 15]. IT IS HEREBY ORDERED THAT plaintiffs' claims against defendants Scott D. Augustine, James Benham, Paul Johnson, and Tim Hensley are DISMISSED WITHOUT PREJUDICE for failure to comply with the Court's June 11, 2007 order, for failure to effect proper service, and for failure to prosecute.

Dated: August 13, 2007

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge